

Application No: 10/069,742
Attorney's Docket No: NL 000357

REMARKS/ARGUMENTS

Claims 1-10 are pending in the present application. Claims 1 and 6 are independent.

Claims 1-10 are amended herein to remove unnecessary reference indications. Claims 11-14 are newly added. These claims are supported by the specification, for example page 14, line 22 through page 15. No new matter is entered.

Claims 1-10 stand rejected under 35 U.S.C. § 102(e) as allegedly anticipated by Mahapatro (U.S. 6,571,215) and claims 4-5 and 9-10 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Mahapatro. Applicant respectfully traverses the rejections for at least the reasons set forth below.

Applicant's claim 1, for example, recites: "determining for each task an absolute starting time, an absolute ending time and a collection of times and associated task processing speeds, based on the determined relative starting time, relative ending time and assignment of resources for said task, minimizing any violation of the constraints from said set;" (emphasis added).

The Office Action argues on page 3 that Mahapatro describes this feature in col. 6, lines 45-67. However a review of the Mahapatro reference and this section in particular fails to find a teaching of the determining associated task processing speeds, based on the determined relative starting time, relative ending time and assignment of resources for said task.

The Office Action also argues on page 6 that the duration of a task is equivalent to the speed of a task. However applicant disagrees. A duration of a task can be a fixed length, for example as taught by Mahapatro and is not the same as the speed of processing the task. For example, if a duration of a task is 10 minutes per 1 resource and your speed of processing the task is 50% then the time of task completion is 20 minutes. Another example is 10 minutes per 1 resource and your speed of processing the task is 150% and 10 minutes is still used for task completion, in this case ½ a resource for 10 minutes is available or the duration could be reduced to 5 minutes. Clearly the duration of a task is not equivalent to the speed of processing a task.

Even for arguments sake, taking this definition of duration, in the section pointed to in the Office Action, Mahapatro col. 6, lines 45-67, only describes assigning conditions in a sequential

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order and: "If condition (1) is not valid, then the scheduling of the assignment selected from the third group is postponed. If condition (2) is not valid, then the assignments in the second group that could not be finished will be scheduled before the selected assignment is scheduled. In addition, if all of the assignments for a task have been scheduled, then any tasks that are dependent on the scheduled task are examined. If it is determined that any of these tasks are not dependent on any other unscheduled tasks, then all of the assignments for these tasks which are currently in the fourth group are moved to the third group. This process continues until all of the assignments have been scheduled."

There is not even a suggestion of the claim 1 features, for example: "determining for each task an absolute starting time, an absolute ending time and a collection of times and associated task processing speeds, based on the determined relative starting time, relative ending time and assignment of resources for said task."

Furthermore applicant's claim 1 recites: "determining the schedule, comprising for each task the determined absolute starting time, absolute ending time, collection of times and associated task processing speeds and assignment of resources to said task." (emphasis added).

The Office Action argues on page 3 that Mahapatro describes the task processing speed or work-amount or duration is taught in col. 12, 13-27. However a review of the Mahapatro reference and this section in particular fails to find a teaching of the determining the schedule, comprising for each task ... and associated task processing speeds and assignment of resources to said task.

This section of Mahapatro describes: "The task information identifies each of the tasks to be performed and any task constraints associated with these tasks. The task constraints must include the identification of each resource that is assigned to the task and the duration or work-amount that is required of the resource for that task." (emphasis added). Clearly this information is included in the task constraints.

Again this is different from applicant's claimed invention where the task processing speed is determined as taught in claim 1. In contrast Mahapatro describes the duration or work amount is

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identified and provided in the task constraints. Therefore, in Mahapatro the duration must be identified and is given as a fixed constraint, whereas applicant claims determining the task speed.

Mahapatro fails to teach at least the above features in applicant's claim 1. Because Mahapatro fails to teach each and every feature, it is respectfully requested the rejection of claim 1 be withdrawn.

Applicant's claim 6 includes "timing means for determining for each task an absolute starting time, an absolute ending time and a collection of times and associated task processing speeds, based on the determined relative starting time, relative ending time and assignment of resources for said task, minimizing any violation of the constraints from said set; and

scheduling means for determining the schedule, comprising for each task the determined absolute starting time, absolute ending time, collection of times and associated task processing speeds and assignment of resources to said task." (emphasis added).

Claim 6 is different from claim 1; however, the above argued features are similar and the same arguments apply as in claim 1. Mahapatro fails to teach all the claimed features therefore the rejection of claim 6 should be withdrawn.

Claims 2-5 depend from claim 1 and are also allowable over Mahapatro at least by virtue of their dependencies and because they each include further distinguishing features.

Claims 7-14 depend from claim 6 and are also allowable over Mahapatro at least by virtue of their dependencies and because they each include further distinguishing features.

Rejections under 103(a)

The Office Action argues that the solving of a linear programming problem, as particularly claimed in each of 4-5 and 9-10, is obvious in view of Mahapatro. Applicant respectfully disagrees because Mahapatro at least fails to mention determining the task processing speed and fails to teach linear programming techniques. The Office Action states Mahapatro teaches CPM scheduling;

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however, the background of Mahapatro states with regard to duration (as equated by the examiner):
"If this information is not specified, the typical CPM scheduling program will assume the start date for each task to be the current date, and the duration of the task will default to a specific granularity such as one day, one week, etc." (emphasis added).

Therefore there is no suggestion to determine the task processing speed and no suggestion of applying the linear programming technique as argued in the Office Action. Furthermore, it is respectfully submitted that a prima facie case of obviousness is not established according to the Office Action. "For a prima facie case of obviousness to exist, there must be some objective teaching in the prior art or ... knowledge generally available to one of ordinary skill in the art [that] would lead that individual to combine the relevant teachings of the references." *In re Fine*, 837 F.2d 1071, 1074 (Fed. Cir. 1988). "The motivation, suggestion or teaching may come explicitly from 1) statements in the prior art, 2) the knowledge of one of ordinary skill in the art, or 3) in some cases the nature of the problem to be solved." *In re Kotzab*, 217 F.3d 1365, 1370 (Fed. Cir. 2000) (emphasis added).

Analyzing the current application in accordance with the Federal Circuit's roadmap as outlined above, it is clear that the Office Action has not met the burden of showing obviousness.

Consequently, it is respectfully submitted that Mahapatro fails to disclose, teach, or suggest the features as recited in the rejected claims because the Office Action has failed to establish a *prima facie* case of obviousness as required under 35 U.S.C. § 103 and the rejection should be withdrawn.

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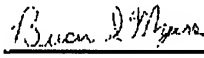
CONCLUSION

It is respectfully submitted this application is in condition for allowance; however, should the Examiner have any further comments or suggestions, the Examiner is invited to telephone the undersigned attorney in order to expeditiously resolve any outstanding issues.

For any fees due in connection with the filing of this paper, please charge our Deposit Account Number 50-0578 and please credit any excess fees to such Deposit Account.

Respectfully submitted,

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